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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JEFF HOHLBEIN,

Case No. CV-08-3679 WHA

Plaintiff,

Civil Rights

**PACPIZZA, LLC, a Delaware Limited
Liability Company, dba PIZZA HUT,
GEORGE KASPER, as Trustee of the
Kasper Family Trust dated June 12, 1990,
and DOES ONE to FIFTY, inclusive.**

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES: DENIAL OF CIVIL RIGHTS OF A DISABLED PERSON IN VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990; VIOLATION OF CALIFORNIA'S CIVIL RIGHTS STATUTES

Defendants.

JURY TRIAL REQUESTED

Plaintiff **JEFF HOHLBEIN** complains of defendants **PACPIZZA, LLC**, a **Delaware Limited Liability Company**, **dba PIZZA HUT**, **GEORGE KASPER**, as **Trustee of the Kasper Family Trust dated June 12, 1990**, and **DOES ONE to FIFTY, inclusive**, and alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction of this action pursuant to 28 **USC** § 1331 for violations of the **Americans with Disabilities Act of 1990**, (42 **USC** § 12101, et seq.) Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the same facts, are also brought under California law, including, but not limited to, violations of **California Health & Safety Code** § 19955, et seq., including **California Code of Regulations**, Title 24, § 19959,

1 **California Civil Code** §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55.

2 2. Venue is proper in this court pursuant to 28 **USC** § 1391(b) and is founded on the
3 fact that the real property which is the subject of this action is located in this district, at
4 Crescent City, Del Norte, California, and that Plaintiff's causes of action arose in this district.

5 **INTRODUCTION**

6 3. **PIZZA HUT** is located at 835 Northcrest Drive, Crescent City, California. Said
7 pizza restaurant is owned and operated by defendants **PACPIZZA, LLC, GEORGE KASPER,**
8 **as Trustee of the Kasper Family Trust dated June 12, 1990, and DOES ONE to FIFTY,**
9 **inclusive.**

10 4. Defendants **PACPIZZA, LLC, GEORGE KASPER, as Trustee of the Kasper**
11 **Family Trust dated June 12, 1990, and DOES ONE to FIFTY, inclusive,** operate an
12 establishment for services to the public and at which Defendants failed to provide barrier free
13 access to said establishment in conformity with both Federal and California legal requirements.
14 Further, Defendants failed to provide compliance as follows:

- 15 a) The front entrance door(s) require excessive pressure to open in
16 violation of California Title 24 §1133B.2.5, ADAAG 4.13.11*.
- 17 b) The men's restroom is not wheelchair accessible in violation of
18 California Title 24 §1118B.4(1), ADAAG 4.2.4.1.
- 19 c) The men's restroom door swings into the accessible space in
20 violation of California Title 24 §1115B.7, ADAAG 4.2.4.1, 4.13.6,
21 Fig. 3(b).
- 22 d) The lavatory knee clearance is in violation of California Title 24
23 §1115BB.9.1.1, California Plumbing Code §1504.2, ADAAG 4.19.2,
24 Fig 11B-1D.
- 25 e) There is not enough clear floor space to maneuver a wheelchair
26 inside of the men's restroom in violation of California Title 24
27 §1118B.4 (2), ADAAG 4.2.4.2, 4.19.3.
- 28 f) The entrance door to the men's restroom requires excessive
 pressure to open in violation of California Title 24 §1133B.2.5,
 ADAAG 4.13.11*.

26 The above barriers interfered with Plaintiff's access of the facilities and continue to deter
27 Plaintiff from visiting said facilities, and as a legal result, Plaintiff **JEFF HOHLBEIN** suffers
28 violations of his civil rights to full and equal enjoyment of goods, services, facilities and

privileges, and has and will suffer embarrassment and humiliation.

FACTUAL ALLEGATIONS

5. Plaintiff **JEFF HOHLBEIN** is, and at all times relevant to this Complaint is, a “physically handicapped person,” “physically disabled person,” and a “person with a disability,” as these terms are used under California law and under federal laws including, but not limited to, Title III of the ***Americans with Disabilities Act of 1990***. (The terms “physically handicapped person,” “physically disabled person,” and a “person with a disability” will be used interchangeably throughout this Complaint.) Plaintiff is a “person with a disability,” as defined by all applicable California and United State’s laws. Plaintiff **JEFF HOHLBEIN** is severely limited in the use of his legs.

6. Defendants **PACPIZZA, LLC, GEORGE KASPER, as Trustee of the Kasper Family Trust dated June 12, 1990, and DOES ONE to FIFTY, inclusive**, at all times relevant herein were and are the owners and operators; lessors and/or lessees, franchisers and/or franchisees, of public facilities known as the "**PIZZA HUT**," located at Crescent City, California, subject to the requirements of California state law requiring full and equal access to public facilities pursuant to ***California Health & Safety Code* § 19955, et seq., California Civil Code §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55**, and subject to Title III of the ***Americans with Disabilities Act of 1990***, and to all other legal requirements referred to in this Complaint. Plaintiff does not know the relative responsibilities of defendants in the operation of the facilities herein complained of, and alleges a joint venture and common enterprise by all such defendants.

7. Defendants **PACPIZZA, LLC, GEORGE KASPER, as Trustee of the Kasper Family Trust dated June 12, 1990, and DOES ONE to FIFTY, inclusive** (hereinafter alternatively referred to collectively as "defendants"), at all times relevant herein were and are owners, possessors, builders and keepers of the "**PIZZA HUT**" in Crescent City, California.

8. Defendants **PACPIZZA, LLC, GEORGE KASPER, as Trustee of the Kasper Family Trust dated June 12, 1990, and DOES ONE to FIFTY, inclusive** are the owners and operators of the subject "**PIZZA HUT**" at all times relevant to this Complaint. Plaintiff is

1 informed and believes that each of the defendants herein is the agent, employee or
2 representative of each of the other defendants, and performed all acts and omissions stated
3 herein within the scope of such agency or employment or representative capacity and is
4 responsible in some manner for the acts and omissions of the other defendants in legally
5 causing the damages complained of herein, and have approved or ratified each of the acts or
6 omissions of each other defendant, as herein described.

7 9. Plaintiff **JEFF HOHLBEIN** does not know the true names and capacities of
8 defendants **PACPIZZA, LLC, GEORGE KASPER, as Trustee of the Kasper Family Trust**
9 **dated June 12, 1990, and DOES ONE to FIFTY, inclusive**, their business capacities, their
10 ownership connection to the property and business, nor their relative responsibilities in causing
11 the access violations herein complained of, and alleges a joint venture and common enterprise
12 by all such defendants. Plaintiff is informed and believes that each of the defendants herein,
13 including DOES ONE to FIFTY, inclusive, is the agent, ostensible agent, master, servant,
14 employer, employee, representative, franchiser, franchisee, joint venturer, partner, and
15 associate, or such similar capacity, of each of the other defendants, and was at all times acting
16 and performing, or failing to act or perform, with the authorization, consent, permission or
17 ratification of each of the other defendants, and is responsible in some manner for the acts and
18 omissions of the other defendants in legally causing the violations and damages complained of
19 herein, and have approved or ratified each of the acts or omissions of each other defendant,
20 as herein described. Plaintiff will seek leave to amend this Complaint when the true names,
21 capacities, connections and responsibilities of defendants **PACPIZZA, LLC, GEORGE**
22 **KASPER, as Trustee of the Kasper Family Trust dated June 12, 1990, and DOES ONE to**
23 **FIFTY, inclusive**, are ascertained.

24 10. Plaintiff is informed and believes that all named defendants, including DOES
25 ONE to FIFTY, inclusive, conspired to commit the acts described herein, or alternatively, aided
26 and abetted one another in the performance of the wrongful acts hereinafter alleged.

27 11. Defendants **PACPIZZA, LLC, GEORGE KASPER, as Trustee of the Kasper**
28 **Family Trust dated June 12, 1990, and DOES ONE to FIFTY, inclusive**, are the owners and

1 operators of the "**PIZZA HUT**" located at Crescent City, California. This pizza restaurant,
2 including, but not limited to, parking spaces and access aisles and access routes, are each a
3 part of a "public accommodation or facility" subject to the requirements of **California Health &**
4 **Safety Code** § 19955, et seq., and of **California Civil Code** §§ 51, 52(a), 54, 54.1, et seq. On
5 information and belief, this "**PIZZA HUT**" restaurant was constructed after 1990, which has
6 subjected the "**PIZZA HUT**" restaurant to handicapped access requirements per **California**
7 **Health & Safety Code** § 19959, and applicable portions of **California Code of Regulations**,
8 Title 24, (the State Building Code).

9 12. On or about March 20, 2008, Plaintiff **JEFF HOHLBEIN**, visited the "**PIZZA HUT**"
10 in Crescent City, California for the purpose of obtaining a pizza. Defendants **PACPIZZA, LLC**,
11 **GEORGE KASPER, as Trustee of the Kasper Family Trust dated June 12, 1990, and**
12 **DOES ONE to FIFTY, inclusive**, interfered with Plaintiff's access to the "**PIZZA HUT**" as set
13 forth in Paragraph 4 above.

14 Said acts and omissions denied Plaintiff legal handicapped access to the "**PIZZA HUT**"
15 according to federal and state law.

16 13. Plaintiff's home, in Portland, Oregon, California, is approximately 337 miles from
17 the "**PIZZA HUT**" in Crescent City, California. Plaintiff travels regularly to Crescent City for
18 pleasure and business. Plaintiff intends to return to "**PIZZA HUT**" in Crescent City, California
19 when this public accommodation is made accessible.

20 14. Plaintiff encountered and/or is informed and believes that the following
21 architectural barriers, which violate the requirements of the **California Code of Regulations**
22 Title 24 and **ADAAG**, existed and continue to exist thereby denying Plaintiff and those similarly
23 situated full and equal access to the subject public facility as set forth in Paragraph 4 above.

24 15. Defendants, and each of them, discriminated against Plaintiff **JEFF HOHLBEIN**
25 on the basis of his physical disability, and interfered with his access to the "**PIZZA HUT**"
26 establishment, in violation of both California law including, but not limited to, **California Civil**
27 **Code** §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302, the "Prohibition of Discrimination"
28 provision and §503, the "Prohibition Against Retaliation or Coercion" provision of the

Americans with Disabilities Act of 1990.

16. As a result of the actions and failure to act of defendants, and each of them, and as a result of the failure to provide appropriate accessible parking, proper signage, proper accessible entryways, and accessible accommodations for a pizza restaurant, Plaintiff **JEFF HOHLBEIN** suffered and will suffer a loss of his civil rights to full and equal access to public facilities, and further suffered and will suffer emotional distress, mental distress, mental suffering, mental anguish, which includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally associated with a person with a physical disability being denied access to a public accommodation, all to his damages as prayed hereinafter in an amount within the jurisdiction of this court.

I. FIRST CAUSE OF ACTION:

**VIOLATION OF *THE AMERICANS WITH DISABILITIES ACT OF 1990*
(42 USC §12101 et seq.)**

17. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in paragraphs 1 through 16 of this Complaint and incorporates them herein as if separately replied.

18. Pursuant to law, in 1990 the United States Congress made findings per 42 USC § 12101 regarding persons with physical disabilities, finding that laws were needed to more fully protect 43 million Americans with one or more physical or mental disabilities; [that] historically society has tended to isolate and segregate individuals with disabilities; [that] such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem; [that] the nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living and economic self-sufficiency for such individuals; [and that] the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous.

19. Congress stated as its purpose in passing the ***Americans with Disabilities Act of 1990*** (42 USC § 12102):

It is the purpose of this act (1) to provide a clear and comprehensive

1 national mandate for the elimination of discrimination against individuals with
 2 disabilities; (2) to provide clear, strong, consistent, enforceable standards
 3 addressing discrimination against individuals with disabilities; (3) to ensure that
 4 the Federal government plays a central role in enforcing the standards
 5 established in this act on behalf of individuals with disabilities; and (4) to invoke
 6 the sweep of Congressional authority, including the power to enforce the 14th
 7 Amendment and to regulate commerce, in order to address the major areas of
 8 discrimination faced day to day by people with disabilities.
 9

10 20. As part of the ***Americans with Disabilities Act of 1990***, Public Law 101-336
 11 (hereinafter the “ADA”), Congress passed “Title III - Public Accommodations and Services
 12 Operated by Private Entities” (42 **USC** § 12181 *et seq.*). Among the public accommodations
 13 identified for purposes of this title were “a restaurant, bar, or other establishment serving food
 14 or drink, . . .”

15 21. Pursuant to 42 **USC** § 12182,

16 “No individual shall be discriminated against on the basis of disability in
 17 the full and equal enjoyment of the goods, services, facilities, privileges,
 18 advantages, or accommodations of any place of public accommodation by any
 19 person who owns, leases (or leases to), or operates a place of public
 20 accommodation.”

21 22. Among the general prohibitions against discrimination were included in 42 **USC**
 22 §12182(b)(1)(A)(i):

23 **Denial of participation.** It shall be discriminatory to subject an individual
 24 or class of individuals on the basis of a disability or disabilities of such individual
 25 or class, directly, or through contractual, licensing, or other arrangements, to a
 26 denial of the opportunity of the individual or class to participate in or benefit from
 27 the goods, services, facilities, privileges, advantages, or accommodations of an
 28 entity.

29 23. Among the general prohibitions against discrimination were included in 42 **USC**
 30 §12182(b)(1)(E):

31 **Association** -- It shall be discriminatory to exclude or otherwise deny
 32 equal goods, services, facilities, privileges, advantages, accommodations, or
 33 other opportunities to an individual or entity because of the known disability of an
 34 individual with whom the individual or entity is known to have a relationship or
 35 association.

36 The acts of defendants set forth herein were a violation of Plaintiff’s rights under the ADA,
 37 Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36 *et seq.*

38 24. Among the general prohibitions against discrimination were included in 42 **USC**

§ 12182(b)(2)(A)(i) and 42 USC § 12182(b)(2)(A)(ii):

Discrimination. For purposes of subsection (a), discrimination includes -

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

25. Plaintiff alleges that constructing the eligibility requirements, policies, practices and procedure for entry to the "**PIZZA HUT**" facility by persons with disabilities and their companions as established by the defendants can be simply modified to eliminate disparate and discriminatory treatment of persons with disabilities by properly constructing barrier free handicapped access for safe and full and equal enjoyment of the "**PIZZA HUT**" as that enjoyed by other people.

26. The specific prohibition against retaliation and coercion is included in the **Americans With Disabilities Act of 1990** § 503(b) and the *Remedies and Procedures* in § 503(c):

(b) Interference, Coercion, or Intimidation. - It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) Remedies and Procedure. - The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to Title I, Title II and Title III, respectively.

27. Among the specific prohibitions against discrimination were included, in 42 **USC** § 12182(b)(2)(a)(iv), “A failure to remove architectural barriers, and communications barriers that are structural in nature, in existing facilities...where such removal is readily achievable;” and (v) “where an entity can demonstrate that the removal of a barrier under clause (iv) is not

1 readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or
 2 accommodations available through alternative methods if such methods are readily
 3 achievable." The acts of Defendants set forth herein were a violations of Plaintiff's rights under
 4 the "ADA," Public Law 101-336, and the regulations promulgated thereunder, 28 **CFR** Part 36,
 5 *et seq.*

6 28. The removal of the barriers complained of by Plaintiff as hereinabove alleged
 7 were at all times after 1990 "readily achievable." On information and belief, if the removal of all
 8 the barriers complained of here together were not "readily achievable," the removal of each
 9 individual barrier complained of herein was "readily achievable."

10 29. Per 42 **USC** § 12181(9), "The term 'readily achievable' means easily
 11 accomplishable and able to be carried out without much difficulty or expense." The statute and
 12 attendant regulations define relative "expense" in relation to the total financial resources of the
 13 entities involved, including any "parent" companies. Plaintiff alleges that properly repairing
 14 each of the items that Plaintiff complains of herein is readily achievable, including, but not
 15 limited to, correcting and repairing the items set forth in Paragraph 4 above.

16 The changes needed to remove barriers to access for the disabled were and are
 17 "readily achievable" by the defendants under standards set forth under 42 **USC** § 12181 of the
 18 **Americans with Disabilities Act of 1990**. (Further, if it was not "readily achievable" for
 19 defendants to remove all such barriers, defendants have failed to make the required services
 20 available through alternative methods, although such methods are achievable as required by
 21 42 **USC** §12181(b)(2)(a)(iv), (v).)

22 30. Pursuant to the **Americans with Disabilities Act of 1990**, §308 (42 **USC** §
 23 12188 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the **Civil Rights**
 24 **Act of 1964** §204(a), (42 **USC** § 2000a-3(a)), as Plaintiff is being subjected to discrimination
 25 on the basis of disability in violation of this title and/or Plaintiff has reasonable grounds for
 26 believing that he is about to be subjected to discrimination in violation of **Americans With**
 27 **Disabilities Act of 1990** §302. Plaintiff cannot return to or make use of the public facilities
 28 complained of herein for the purpose of entry and provision of goods and service so long as

1 defendants continue to apply eligibility criteria, policies, practices and procedures to screen out
 2 and refuse to allow entry and service to persons with disabilities such as Plaintiff's.

3 31. Defendants', and each of their acts and omissions of failing to provide barrier free
 4 handicapped access for Plaintiff, were tantamount to interference, coercion or intimidation
 5 pursuant to ***Americans With Disabilities Act of 1990*** §503(b) (now 42 **USC** § 12203):

6 It shall be unlawful to coerce, intimidate, threaten, or interfere with any
 7 individual in the exercise or enjoyment of, or on account of his or her having
 8 aided or encouraged any other individual in the exercise or enjoyment of, any
 9 right granted or protected by this Act.

10 32. Per ***Americans With Disabilities Act of 1990*** § 308(a)(1) (now 42 **USC** §
 11 12188), "Nothing in this section shall require a person with a disability to engage in a futile
 12 gesture if such person has actual notice that a person or organization covered by this title does
 13 not intend to comply with its provisions." Pursuant to this last section, Plaintiff, on information
 14 and belief, alleges that defendants have continued to violate the law and deny the rights of
 15 Plaintiff and other disabled persons to access this public accommodation for the purpose of
 16 obtaining a meal. Therefore, Plaintiff seeks injunctive relief pursuant to §308(a)(2),

17 "...Where appropriate, injunctive relief shall also include requiring the
 18 provision of an auxiliary aid or service, modifications of a policy, or provision of
 19 alternative methods, to the extent required by this title."

20 33. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the ***Civil Rights***
 21 ***Act of 1964*** (42 **USC** § 2000a-3(a), and pursuant to federal regulations adopted to implement
 22 the ***Americans with Disabilities Act of 1990***, including, but not limited to, an order granting
 23 injunctive relief and attorneys' fees. Such attorneys' fees, "including litigation expenses and
 24 costs," are further specifically provided for by §505 of Title III.

25 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

26 **II. SECOND CAUSE OF ACTION**

27 BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH PHYSICAL
 28 DISABILITIES (***California Health & Safety Code*** § 19955, *et seq.*)

34. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,
 the allegations contained in paragraphs 1 through 33 of this Complaint and incorporate them
 herein as if separately replied.

1 35. ***California Health & Safety Code*** § 19955 provides in pertinent part:

2 The purpose of this part is to insure that public accommodations or
 3 facilities constructed in this state with private funds adhere to the provisions of
 4 Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the
 5 *Government Code*. For the purposes of this part “public accommodation or
 6 facilities” means a building, structure, facility, complex, or improved area which is
 7 used by the general public and shall include auditoriums, hospitals, theaters,
 8 restaurants, hotels, motels, stadiums, and convention centers. When sanitary
 9 facilities are made available for the public, clients or employees in such
 10 accommodations or facilities, they shall be made available for the handicapped.

11 36. ***California Health & Safety Code*** § 19956, which appears in the same chapter
 12 as §19955, provides in pertinent part, “accommodations constructed in this state shall conform
 13 to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the
 14 *Government Code...*” ***California Health & Safety Code*** § 19956 was operative July 1, 1970,
 15 and is applicable to all public accommodations constructed or altered after that date. On
 16 information and belief, portions of “PIZZA HUT” and/or of its buildings, were constructed and/or
 17 altered after July 1, 1970, and substantial portions of said building had alterations, structural
 18 repairs, and/or additions made to such public accommodations after July 1, 1970, thereby
 19 requiring said public accommodations and/or buildings to be subject to the requirements of
 20 Part 5.5, ***California Health & Safety Code*** § 19955, *et seq.*, upon such alteration, structural
 21 repairs or additions per ***California Health & Safety Code*** § 19959.

22 37. Pursuant to the authority delegated by ***California Government Code*** § 4450, *et*
 23 *seq.*, the State Architect promulgated regulations for the enforcement of these provisions.
 24 Effective January 1, 1982, Title 24 of the ***California Administrative Code*** adopted the
 25 California State Architect’s Regulations and these regulations must be complied with as to any
 26 alterations and/or modifications of the “PIZZA HUT” occurring after that date. Construction
 27 changes occurring prior to this date but after July 1, 1970 triggered access requirements
 28 pursuant to the “ASA” requirements, the ***American Standards Association Specifications***,
 A117.1-1961. On information and belief, at the time of the construction and modification of
 said building, all buildings and facilities covered were required to conform to each of the
 standards and specifications described in the ***American Standards Association***

1 **Specifications** and/or those contained in Title 24 of the **California Administrative Code**,
 2 (now known as Title 24, **California Code of Regulations**.)

3 38. Public facilities, such as "**PIZZA HUT**" are public accommodations or facilities
 4 within the meaning of **California Health & Safety Code** § 19955, et seq.

5 39. It is difficult or impossible for persons with physical disabilities who use
 6 wheelchairs, canes, walkers and service animals to travel about in public to use a pizza
 7 restaurant with the defects set forth in Paragraph 4 above as required by Title 24 of the
 8 **California Code of Regulations** and the **Americans with Disabilities Act Access**
 9 **Guidelines (ADAAG)**. Thus, when public accommodations fail to provide handicap accessible
 10 public facilities, persons with physical disabilities are unable to enter and use said facilities,
 11 and are denied full and equal access to and use of that facility that is enjoyed by other
 12 members of the general public.

13 40. Plaintiff **JEFF HOHLBEIN** and other similarly situated persons with physical
 14 disabilities whose physical conditions require the use of wheelchairs, canes, walkers and
 15 service animals are unable to use public facilities on a "full and equal" basis unless each such
 16 facility is in compliance with the provisions of the **California Health & Safety Code** § 19955,
 17 et seq. Plaintiff is a member of that portion of the public whose rights are protected by the
 18 provisions of **California Health & Safety Code** § 19955, et seq.

19 41. The **California Health & Safety Code** was enacted "[t]o ensure that public
 20 accommodations or facilities constructed in this state with private funds adhere to the
 21 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the *Government*
 22 *Code*." Such public accommodations are defined to include pizza restaurants.

23 42. Plaintiff is further informed and believes that as of the date of filing this
 24 Complaint, Defendants have not made accessible the facilities at the subject pizza restaurant
 25 as set forth in Paragraph 4 above.

26 43. Plaintiff **JEFF HOHLBEIN** is informed and believes, and therefore alleges, that
 27 Defendants **PACPIZZA, LLC, GEORGE KASPER, as Trustee of the Kasper Family Trust**
 28 **dated June 12, 1990, and DOES ONE to FIFTY, inclusive**, and each of them, caused the

1 subject buildings constituting "**PIZZA HUT**" to be constructed, altered and maintained in such a
2 manner that persons with physical disabilities were denied full and equal access to, within and
3 throughout said buildings and were denied full and equal use of said public facilities, and
4 despite knowledge and actual and constructive notice to such Defendants that the
5 configuration of the pizza restaurant and/or buildings was in violation of the civil rights of
6 persons with physical disabilities, such as Plaintiff. Such construction, modification, ownership,
7 operation, maintenance and practices of such public facilities are in violation of law as stated in
8 Part 5.5, **California Health & Safety Code** § 19955, *et seq.*, and elsewhere in the laws of
9 California.

10 44. On information and belief, the subject building constituting the public facilities of
11 "**PIZZA HUT**" denied full and equal access to Plaintiff and other persons with physical
12 disabilities in other respects due to non-compliance with requirement of Title 24 of the
13 **California Code of Regulations** and **California Health & Safety Code** § 19955, *et seq.*

14 45. The basis of Plaintiff's aforementioned information and belief is the various
15 means upon which Defendants must have acquired such knowledge, including, but not limited
16 to, this lawsuit, other access lawsuits, communications with operators of other pizza
17 restaurants and other property owners regarding denial access, communications with Plaintiff
18 and other persons with disabilities, communications with other patrons who regularly visit
19 there, communications with owners of other businesses, notices and advisories they obtained
20 from governmental agencies through the mails, at seminars, posted bulletins, television, radio,
21 public service announcements, or upon modification, improvement, alteration or substantial
22 repair of the subject premises and other properties owned by these Defendants, newspaper
23 articles and trade publications regarding the **Americans with Disabilities Act of 1990** and
24 other access law, and other similar information. The scope and means of the knowledge of
25 each defendant is within each defendant's exclusive control and cannot be ascertained except
26 through discovery.

27 46. As a result of Defendants' acts and omissions in this regard, Plaintiff has been
28 required to incur legal expenses and hire attorneys in order to enforce his civil rights and

1 enforce provisions of the law protecting access for persons with physical disabilities and
2 prohibiting discrimination against persons with physical disabilities, and to take such action
3 both in his own interests and in order to enforce an important right affecting the public interest.
4 Plaintiff, therefore, seeks damages in this lawsuit for recovery of all reasonable attorneys' fees
5 incurred, pursuant to the provisions of the **California Code of Civil Procedure** § 1021.5.
6 Plaintiff additionally seeks attorneys' fees pursuant to **California Health & Safety Code** §
7 19953 and **California Civil Code** §§ 54.3 and 55.

8 47. Defendants, and each of them, at times prior to and including March 20, 2008,
9 and continuing to the present time, knew that persons with physical disabilities were denied
10 their rights of equal access to all portions of this public facility. Despite such knowledge,
11 Defendants failed and refused to take steps to comply with the applicable access statutes; and
12 despite knowledge of the resulting problems and denial of civil rights thereby suffered by
13 Plaintiff **JEFF HOHLBEIN** and other similarly situated persons with disabilities, including the
14 specific notices referred to in paragraph 43 of this Complaint. Defendants have failed and
15 refused to take action to grant full and equal access to persons with physical disabilities in the
16 respects complained of hereinabove. Defendants and each of them have carried out a course
17 of conduct of refusing to respond to, or correct complaints about, denial of handicap access.
18 Such actions and continuing course of conduct by Defendants, evidence despicable conduct in
19 conscious disregard for the rights or safety of Plaintiff and of other similarly situated persons,
20 justifying an award of treble damages pursuant to **California Civil Code** § 54.3.

21 48. Defendants' actions have also been oppressive to persons with physical
22 disabilities and of other members of the public, and have evidenced actual or implied malicious
23 intent toward those members of the public, such as Plaintiff and other persons with physical
24 disabilities who have been denied the proper access they are entitled to by law. Further,
25 Defendants' refusals on a day-to-day basis to correct these problems evidence despicable
26 conduct in conscious disregard for the rights of Plaintiff and other members of the public with
27 physical disabilities.

28 49. Plaintiff prays for an award of treble damages against Defendants, and each of

1 them, pursuant to **California Civil Code** § 54.3 in an amount sufficient to make a more
 2 profound example of Defendants and discourage owners, operators, franchisers and
 3 franchisees of other public facilities from willful disregard of the rights of persons with physical
 4 disabilities.

5 50. As a result of the actions and failure of Defendants, and each of them, and as a
 6 result of the failure to provide proper accessible public facilities, Plaintiff **JEFF HOHLBEIN** was
 7 denied his civil rights, including his right to full and equal access to public facilities, was
 8 embarrassed and humiliated, suffered physical, psychological and mental injuries and
 9 emotional distress, mental distress, mental suffering, mental anguish, which includes shame,
 10 humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and
 11 naturally associated with a person with a physical disability being denied access to a public
 12 accommodation.

13 WHEREFORE, Plaintiff prays for damages as hereinafter stated.

14 **III. THIRD CAUSE OF ACTION**

15 VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS
 (California Civil Code §§ 54, 54.1 and 54.3)

16 51. Plaintiff repleads and incorporates by reference as if fully set forth again herein,
 17 the allegations contained in paragraphs 1 through 50 of this Complaint and incorporates them
 18 herein as if separately replied.

19 52. The public facilities above-described constitute public facilities and public
 20 accommodations within the meaning of **California Health & Safety Code** § 19955 et seq. and
 21 were facilities to which members of the public are invited. The aforementioned acts and
 22 omissions of defendants, and each of them, constitute a denial of equal access to and use and
 23 enjoyment of these facilities by persons with disabilities, including Plaintiff **JEFF HOHLBEIN**.
 24 Said acts and omissions are also in violation of provisions of Title 24 of the **California Code of**
 25 **Regulations**.

26 53. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and the
 27 denial by defendants of such rights and entitlements are set forth in **California Civil Code** §§
 28 54, 54.1 and 54.3, to wit:

1 Individuals with disabilities shall have the same right as the...general
 2 public to full and free use of the streets, highways, sidewalks, walkways, public
 3 buildings, public facilities, and other public places. **California Civil Code** §
 4 54(a).

5 Individuals with disabilities shall be entitled to full and equal access, as
 6 other members of the general public, to accommodations, advantages, facilities,
 7 and privileges of all common carriers, airplanes, motor vehicles, railroad trains,
 8 motor buses, streetcars, boats, or any other public conveyances or modes of
 9 transportation (whether private, public, franchised, licensed, contracted, or
 10 otherwise provided), telephone facilities, adoption agencies, private schools,
 11 hotels, lodging places, places of public accommodation, amusement or resort,
 12 and other places to which the general public is invited, subject only to the
 13 conditions and limitations established by law, or state or federal regulation, and
 14 applicable alike to all persons. **California Civil Code** § 54.1(a).

15 54. On or about March 20, 2008, Plaintiff **JEFF HOHLBEIN** suffered violations of
 16 **California Civil Code** §§ 54 and 54.1 in that he was denied full and equal enjoyment of the
 17 goods, services, facilities and privileges of said **PIZZA HUT**, as set forth in paragraph 4 above.

18 Plaintiff was also denied full and equal access to other particulars, including, but not
 19 limited to, those described hereinabove. Plaintiff was also denied use of facilities that he was
 20 entitled to under Title III of the **Americans with Disabilities Act of 1990**.

21 55. As a result of the denial of full and equal enjoyment of the goods, services,
 22 facilities and privileges of defendants' **PIZZA HUT** due to the acts and omissions of
 23 defendants, and each of them, in owning, operating and maintaining this subject public facility,
 24 Plaintiff suffered violations of his civil rights, including, but not limited to, rights under
 25 **California Civil Code** §§ 54, 54.1, and 54.3, and has and will suffer physical injury, emotional
 26 distress, mental distress, mental suffering, mental anguish, which includes shame, humiliation,
 27 embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally
 28 associated with a disabled person's denial of full and equal enjoyment of goods, services,
 29 privileges, etc. all to his damages as prayed hereinafter in an amount within the jurisdiction of
 30 the court. Defendants' actions and omissions to act constituted discrimination against Plaintiff
 31 on the sole basis that Plaintiff was physically disabled.

32 56. Plaintiff seeks damages for the violation of his rights as a disabled person on or
 33 about March 20, 2008, according to proof, pursuant to **California Civil Code** § 54.3, including

1 a trebling of all statutory and actual damages, general and special, available pursuant to
2 **California Civil Code** § 54.3(a).

3 57. As a result of defendants' acts and omissions in this regard, Plaintiff **JEFF**
4 **HOHLBEIN** has been required to incur legal expenses and hire attorneys in order to enforce
5 his rights and enforce provisions of the law protecting the full and equal enjoyment of goods,
6 services, facilities, privileges of public facilities by the disabled, and those individuals
7 associated with or accompanied by a person with disabilities, and prohibiting discrimination
8 against the disabled. Plaintiff, therefore, seeks recovery in this lawsuit for all reasonable
9 attorneys' fees incurred pursuant to the provisions of **California Civil Code** § 55. Additionally,
10 Plaintiff's lawsuit is intended not only to obtain compensation for damages to Plaintiff, but also
11 to compel the defendants to make their goods, services, facilities and privileges available and
12 accessible to all members of the public with physical disabilities, justifying public interest
13 attorneys' fees pursuant to the provisions of **California Code of Civil Procedure** § 1021.5.

14 58. The acts and omissions of defendants in failing to provide the required
15 accessible facilities subsequent to the enactment date and compliance date of the **Americans**
16 **with Disabilities Act of 1990**, and refusal to make remedial modifications and alterations to its
17 handicapped parking, handicapped signage, pathways, and other elements as hereinabove
18 stated, after being notified by patrons before and after the time of Plaintiff's visit and injuries,
19 on or about March 20, 2008, and all times prior thereto with the knowledge that persons with
20 disabilities would enter defendants' premises, the reason given therefor, was an established
21 policy, practice and procedure of refusing and denying entry, thereby denying services to a
22 person with disabilities and the companions thereof, evidence malice and oppression toward
23 Plaintiff and other disabled persons.

24 59. Plaintiff seeks injunctive relief pursuant to **California Civil Code** § 55 to require
25 Defendants to comply with federal and state access regulations.

26 60. Defendants have failed to establish a nondiscriminatory criteria, policy, practice
27 and procedure for entry into said "**PIZZA HUT**" as hereinabove described.

28 61. As a result of defendants' continuing failure to provide for the full and equal

1 enjoyment of goods, services, facilities and privileges of said "**PIZZA HUT**" as hereinabove
 2 described, Plaintiff has continually been denied his rights to full and equal enjoyment of the
 3 subject pizza restaurant, as it would be a "futile gesture" to attempt to patronize said "**PIZZA**
 4 **HUT**" with the discriminatory policy in place as hereinabove described.

5 62. The acts and omissions of defendants as complained of herein in failing to
 6 provide the required accessible facilities subsequent to the enactment date and compliance
 7 date of the ***Americans with Disabilities Act of 1990*** and refusal to make remedial
 8 modifications and alternations to the architectural barriers as stated herein and in failing to
 9 establish practices, policies and procedures to allow safe access by persons who are disabled
 10 are continuing on a day-to-day basis to have the effect of wrongfully and willfully excluding
 11 Plaintiff and other members of the public who are physically disabled, from full and equal
 12 enjoyment of the subject "**PIZZA HUT**" as hereinabove described. Such acts and omissions
 13 are the continuing cause of humiliation and mental and emotional suffering of Plaintiff in that
 14 these actions continue to treat Plaintiff as an inferior and second class citizen and serve to
 15 discriminate against him on the sole basis that he is physically disabled. Plaintiff is unable, so
 16 long as such acts and omissions of defendants continue, to achieve full and equal enjoyment
 17 of the goods and services of said "**PIZZA HUT**" as described hereinabove. The acts of
 18 defendants have legally caused and will continue to cause irreparable injury to Plaintiff if not
 19 enjoined by this court.

20 63. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin any
 21 continuing refusal by defendants to permit entry to said "**PIZZA HUT**" and to serve Plaintiff or
 22 others similarly situated, and to require defendants to comply forthwith with the applicable
 23 statutory requirements relating to the full and equal enjoyment of goods and services as
 24 described hereinabove for disabled persons. Such injunctive relief is provided by ***California***
 25 ***Civil Code*** § 55. Plaintiff further requests that the court award statutory costs and attorneys'
 26 fees to Plaintiff pursuant to ***California Civil Code*** § 55 and ***California Code of Civil***
 27 ***Procedure*** § 1021.5, all as hereinafter prayed for.

28 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys' fees

1 and costs of suit, as allowed by statute and according to proof.

2 **IV. FOURTH CAUSE OF ACTION**

3 **VIOLATIONS OF *UNRUH CIVIL RIGHTS ACT***
 (California Civil Code §§ 51 and 51.5)

4 64. Plaintiff repleads and incorporates by reference, as if fully set forth again herein,
 5 the allegations contained in paragraphs 1 through 63 of this Complaint and incorporates them
 6 herein as if separately replied.

7 65. Defendants' acts and omissions as specified with regard to the discriminatory
 8 treatment of Plaintiff **JEFF HOHLBEIN** on the basis of his physical disabilities, have been in
 9 violation of **California Civil Code** §§ 51 and 51.5, the ***Unruh Civil Rights Act***, and have
 10 denied to Plaintiff his rights to "full and equal accommodations, advantages, facilities,
 11 privileges or services in all business establishments of every kind whatsoever."

12 66. **California Civil Code** § 51 also provides that "[a] violation of the right of any
 13 individual under the ***Americans with Disabilities Act of 1990*** (Public Law 101-336) shall also
 14 constitute a violation of this section."

15 67. **California Civil Code** § 51.5 also provides that

16 "[n]o business establishment of any kind whatsoever shall discriminate against,
 17 boycott, or blacklist, refuse to buy from, sell to, or trade with any person in this
 18 state because of the race, creed, religion, color, national origin, sex, disability of
 19 the person or of the person's partners, members, stockholders, directors,
 officers, managers, superintendents, agents, employees, business associates,
 suppliers, or customers."

20 68. As a result of the violation of Plaintiff's civil rights protected by **California Civil**
 21 **Code** §§ 51 and, 51.5, Plaintiff is entitled to the rights and remedies of **California Civil Code** §
 22 52, including a trebling of actual damages (defined by **California Civil Code** § 52(h) to mean
 23 "special and general damages"), as well as reasonable attorneys' fees and costs, as allowed
 24 by statute, according to proof.

25 WHEREFORE, Plaintiff prays that this court award damages and provide relief as
 26 follows:

27 **PRAYER FOR RELIEF**

28 Plaintiff prays that this court award damages and provide relief as follows:

1. Grant injunctive relief requiring that defendants establish a non-discriminatory
 2 criteria policy, practice and procedure permitting entry into the **PIZZA HUT** in Crescent City,
 3 California, for the purpose of obtaining the goods and services accorded therein according to
 4 **California Civil Code** §§ 51, 51.5, 52, 54, 54.1, 54.3, and 55, *et seq.*, and Title III of the
 5 **Americans with Disabilities Act of 1990**, and grant injunctive relief requiring that Defendants
 6 repair and render safe to disabled persons, and otherwise make accessible, all public areas of
 7 the pizza restaurant, including, but not limited to, each of the barriers to access identified in
 8 Paragraph 4, above, and make such facilities “readily accessible to and usable by individuals
 9 with disabilities,” according to the standards of Title 24 of the **California Administrative Code**,
 10 **California Health & Safety Code** § 19955 *et seq.*, and Title III of the **Americans with**
 11 **Disabilities Act of 1990** and the standards of **ADAAG**; and prohibiting operation of the **PIZZA**
 12 **HUT**, located in Crescent City, California, as a public facility until Defendants provide full and
 13 equal enjoyment of goods and services as described hereinabove to physically disabled
 14 persons, including Plaintiff;

2. General damages according to proof;
 3. Statutory and “actual” damages, including general damages and special
 16 damages, according to proof, pursuant to **California Civil Code** §§ 52, and 54.3, and that
 17 these damages be trebled;

4. Prejudgment interest on all compensatory damages;
 5. Remedies and Procedures available under **Americans with Disabilities Act of**
 21 **1990** §§ 107, 203 and 308;

6. Award Plaintiff all litigation expenses, all costs of this proceeding and all
 22 reasonable attorneys’ fees as provided by law, including, but not limited to, those recoverable
 23 pursuant to the provisions of **California Civil Code** §§ 52, 54.3, and 55, **California Code of**
 24 **Civil Procedure** § 1021.5, and **Americans with Disabilities Act of 1990** §308 of Title III; and

25 ///

26 ///

27 ///

7. Grant such other and further relief as the court may deem just and proper.

SINGLETON LAW GROUP

Dated: July 30, 2008

/s/ Jason K. Singleton

Jason K. Singleton,
Richard E. Grabowski, Attorneys for
Plaintiff, **JEFF HOHLBEIN**

REQUEST FOR JURY TRIAL

Plaintiff hereby requests a jury for all claims for which a jury is permitted.

SINGLETON LAW GROUP

Dated: July 30, 2008

/s/ Jason K. Singleton

Jason K. Singleton,
Richard E. Grabowski, Attorneys for
Plaintiff, **JEFF HOHLBEIN**

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I.(a) PLAINTIFFS

DEFENDANTS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury Med Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers Liability	PERSONAL PROPERTY	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth In Lending	LABOR	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	SOCIAL SECURITY	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 894 Energy Allocation Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus:	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	FEDERAL TAX SUITS	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 445 Amer w/ disab - Empl	<input type="checkbox"/> 555 Prison Condition		

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ _____
UNDER F.R.C.P. 23 CHECK YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S) PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE
IF ANY "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

 SAN FRANCISCO/OAKLAND SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD